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EXAMINER

TOPGYAL, GELEK W

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/930,756		WAKAHARA, TATSUYA	
	Examiner		Art Unit	
	Gelek Topgyal		2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5 May 2006 have been fully considered but they are not persuasive.

In re pages 16-17, the applicant argues that neither Higurashi, Horton, Horlander, Tsutsumi, Alten nor Lang discloses applicant's descriptor-based scheme for identifying and analyzing copy protect data of a program and controlling the display of information regarding such copy protect data as amended into independent claims 1, 5, 9, 13, 34 and 55.

In response, the examiner respectfully disagrees. The amendments to independent claims 1, 5, 9, 13, 34 and 55 adds new limitation of judging, analyzing and controlling is performed according to a descriptor associated with the program. As per communication dated 2 February 2006, in the rejection of the independent claims 1, 5, 9, 13, 34 and 55, Higurashi discloses that CGMS information associated with the program is detected by the CGMS detector (3 or 30) and decides whether recording is allowed or not. Therefore the CGMS detector (3 or 30) performs both judging and analyzing of copy restriction). The claimed "descriptor" is interpreted as being the same type of information as the claimed "restriction on recording". The amended to the claims states "said judging, analyzing, and display control means" thereby claiming antecedent basis where judging, analyzing, and display control means only interact with "restriction on recording", and therefore the "descriptor" and "restriction on recording" are interpreted as the same information.

Furthermore the amended claims recite "executable code for carrying out judging, analyzing and controlling." The CGMS information as taught by Higurashi has a two bit data structure: "00", "01", "10" or "11", which are executed/processed by the CGMS detector (3 or 30) to judge and analyze the "descriptor"/"restriction on the program", and when the user tries to record a desired restricted program the controller (5 or 50) controls the displaying of the "descriptor"/"restriction on the program" using the determination from the CGMS detector (3 or 30) (col. 3, lines 41-55).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1, 3, 5, 7, 13-17, 20, 22, 23, 32-38, 41, 43, 44, 53 and 54** are rejected under 35 U.S.C. 102(e) as being anticipated by Higurashi.

Claim 1 teaches an information processing device, characterized by comprising:

- judging means for judging whether restriction on recording is imposed on a program which a user desires to watch and listen to;
- analyzing means for analyzing the restriction if it is judged by said judging means that the restriction on recording is imposed on the program (Higurashi

teaches in col. 3, lines 41-44 of a CGMS detector (3 or 30), which decides whether recording is allowed or not. The CGMS detector thereby does the judging and analyzing of copy restriction); and

- display control means for controlling a display on a screen to make the user recognize an analysis result of said analyzing means (Higurashi teaches in col. 5, lines 6-18 of a controller (5 or 50) that controls the switch (7 or 70) to retrieve copy information stored in memory 4b and further display the information on a TV-screen);
- whereby said judging, analyzing and controlling is performed according to a descriptor that is associated with the program and includes executable code for carrying out said judging, analyzing and controlling (The claimed “descriptor” is interpreted as being the same type of information as the claimed “restriction on recording”. The amended to the claims states “said judging, analyzing, and display control means” thereby claiming antecedent basis where judging, analyzing, and display control means interact with “restriction on recording”, and therefore the “descriptor” and “restriction on recording” are interpreted as the same information. The CGMS information as taught by Higurashi has a two bit data structure: “00”, “01”, “10” or “11”, which are executed/processed by the CGMS detector (3 or 30) to judge and analyze the “descriptor”/“restriction on the program”, and when the user tries to record a desired restricted program the controller (5 or 50) controls the

displaying of the "descriptor"/"restriction on the program" using the determination from the CGMS detector (3 or 30)).

Regarding claim 3, Higurashi teaches the limitations in col. 5, lines 12-18, where the copy protect data is displayed on the TV screen.

Claims 5 and 7 are rejected for the same reasons as discussed above in claims 1 and 3, respectively, because a device inherently uses methods to accomplish its' tasks.

Regarding claim 13, Higurashi teaches of a system that meets the limitations. A display unit in the form of a TV screen is used in Higurashi's system (col. 4, lines 46-55). The controller (5 or 50) and the CGMS detector (3 or 30) work together to identify and analyze the presence of copyright protection, and display the copy protect data on the display unit (col. 5, lines 6-17).

Regarding claim 14, Higurashi teaches in Fig. 4 of an apparatus that is used to receive the broadcast programs. All the components in Fig. 4 is part of a single apparatus, this meets the limitations of a receiver.

Regarding claim 15, Higurashi teaches in Fig. 4, element 20 of a set top box (STB), included within the receiver.

Regarding claim 16, Higurashi teaches in Fig. 4, element 100 of an MPEG decoder, which meets the limitations of an integrated receiver decoder.

Regarding claim 17, Higurashi discloses that a TV display unit is connected to display copy protection information. It is inherent that for a TV to display a program, it

has to have a tuner to tune to a certain channel, and a display unit so that users can visually see the program.

Regarding claim 20, Higurashi teaches a system where the identification and the analysis of the copy protect data is applied for restriction of recording a program. The identification and analysis of the copy protect data takes place before the program is copied (col. 3, lines 40-50). He also teaches of a recording medium connected to the system (col. 3, lines 45-50) adapted to copy the program.

Regarding claim 22, Higurashi teaches of an electronic program guide (EPG) that is displayed on the TV screen. With the use of a remote controller, the system is able to receive the user's inputs. The EPG is interactive and it allows the user to select a program to be recorded by way of a program guide (col. 5, lines 1-5).

Regarding claim 23, Higurashi describes that for a program that is protected, the user is prompted with a message as shown in Fig. 6 that describes the copyright protection imposed on the desired program (col. 5, lines 43-47).

Regarding claim 32, Higurashi teaches of a system that meets the limitations. A display unit in the form of a TV screen is used in Higurashi's system (col. 4, lines 46-55). The controller (5 or 50) and the CGMS detector (3 or 30) work together to identify and analyze the presence of copyright protection, and display the copy protect data on the display unit (col. 5, lines 6-17).

Regarding claim 33, Higurashi discloses that the programs that are received are digital (col. 3, lines 1-4).

Claims 34-38, 41, 43, 44, 53 and 54 are rejected for the same reasons as discussed above in claims 13-17, 20, 22, 23, 32 and 33, respectively, because a device inherently uses methods to accomplish its' tasks.

3. **Claims 25, 26, 46 and 47** are rejected under 35 U.S.C. 102(e) as being anticipated by Horton.

Regarding claims 25 and 26, Horton discloses that user is notified by display of the different types of modes available, including the modes for viewing and recording of the desired program. The user is prompted for an input by way of a remote controller for the viewing and recording of a certain program by paying a fee (col. 3, lines 39-47).

Claims 46 and 47 are rejected for the same reasons as discussed above in claims 25 and 26, respectively, because a device inherently uses methods to accomplish its' tasks.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 2 and 6** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higurashi as applied to claim 1 and 5 above, and in view of Horton, and further in view of Horlander.

Regarding claim 2, Higurashi teaches a device that judges and analyzes copy protection on TV programs. He teaches in col. 5, lines 12-18 of displaying messages to the user regarding the copy protection information. Higurashi discloses in col. 5, lines 43-51 of a case where a recording cannot take place; this means that neither a digital nor an analog copy is allowed. Higurashi fails to teach that the recording can be released by way of paying an additional fee and specifically fails to mention that only analog recording is allowed.

In an analogous art, Horton teaches a system and method for controlled viewing and videotaping of programs. In col. 3, lines 47-60, he discloses a system that allows a user to view only, view and tape for free, and view and tape for a fee. This covers the limitation of paying a fee for allowing a recording of a program. Horton mentions that the recording is accomplished through a VCR; this implies that only an analog copy can be made, but he doesn't expressly teach it.

Horlander teaches a system wherein only an analog copy of the broadcast program can be made (Fig. 9, step 920). This covers the limitations of allowing only an analog recording of a program.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Horton's billing system into Higurashi's invention so that royalties for copyright programs are rightfully paid, and, to incorporate Horlander's system to allow only an analog recording so that the quality of the copied program will not be long lasting, and thereby inhibit more copies made in future due to the deteriorating data stored on the magnetic tapes.

Claims 6 is rejected for the same reasons as discussed above in claims 2 because a device inherently uses methods to accomplish its' tasks.

6. **Claims 4, 8, 31 and 52** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higurashi as applied to claim 1 and 5 above, and further in view of Tsutsumi.

Regarding claim 4, Higurashi teaches a system where the copy protect data is displayed on the screen, but he fails to teach that the message is displayed for a predetermined time.

In an analogous art, Tsutsumi teaches of a system where a message displayed to a user via a display unit is removed from the display unit after a certain period of time (col. 5, lines 36-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to display a message on a display unit for only a predetermined time to increase user friendliness so that the user can continue to watch the program that was disturbed due to the display of the message.

Claims 8 is rejected for the same reasons as discussed above in claims 4 because a device inherently uses methods to accomplish its' tasks.

Regarding claim 31, Higurashi teaches a system where the copy protect data is displayed on the screen, but fails to specifically teach that the message displayed is terminated according to a predetermined time.

In an analogous art, Tsutsumi teaches of a system where a message displayed to a user via a display unit is removed from the display unit after a certain period of time (col. 5, lines 36-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to display a message on a display unit for only a predetermined time to increase user friendliness so that the user can continue to watch the program that was disturbed due to the display of the message.

Claims 52 is rejected for the same reasons as discussed above in claim 31 because a device inherently uses methods to accomplish its' tasks.

7. **Claims 9 - 12** are rejected for the same reasons as discussed above in claims 1-4, respectively, and further in view of Lang.

Regarding claims 9-12, Higurashi, Horton and Horlander combined teach a device that judges and analyzes copy protection, and allows recordings based on the analysis of the copy protection, but fail to specifically mention a medium recorded with a computer-readable program that includes the instructions for the analysis and display of the copy protection.

Lang teaches in col. 7, lines 10-19 of memory unit (ROM 32) that stores programs used by a processor (CPU 31). As mentioned in col. 6, lines 46-52, the control unit (DCU 14) uses the programs stored in the ROM 32 to accomplish its' tasks.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a medium recorded with a computer-readable program so that a computer can be used to control any of the functions of the apparatus.

8. **Claims 18, 19, 21, 39, 40 and 42** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higurashi and further in view of Horton.

Regarding claim 18, Higurashi teaches a system where the identification and the analysis of the copy protect data is applied only for restriction of recording a program. The identification and analysis of the copy protect data takes place prior to the display of the program (col. 5, lines 6-17). Higurashi fails to teach of a system that inhibits the user from solely viewing the program.

In an analogous art, Horton teaches a system which can inhibit the user from watching the program (col. 3, lines 45-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to inhibit the user from viewing a protected program so that payment and/or royalties can be collected for copyright programs. In the art, services like pay per view (PPV) would need to inhibit viewing of programs in order for them to make money.

Regarding claim 19, Higurashi teaches system as recited in claim 18, where the identification and the analysis of the copy protect data is applied only for restriction of recording a program, but fails to disclose information on paying money for the display of the desired program.

Horton teaches a system which requires a fee for the display of a desired program (col. 3, lines 45-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include payment of a fee into Higurashi's system so that royalties can be collected for copyright programs. Another motivation for charging the user a fee is for the implementation of services like pay per view (PPV) or on-demand, where the company's main source of revenue is from customers wishing to view copyright programs.

Regarding claim 21, Higurashi teaches a system that allows for copying of a desired program, but fails to teach of a payment necessary to copy (record) the program.

Horton teaches of a system where a user is charged a fee to be able to record a desired program (col. 3, lines 39-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to charge a fee to allow a user to copy a desired program so that royalties can be collected for copyright programs and for the purpose of revenue for companies that offer services like pay per view (PPV).

Claims 39, 40 and 42 are rejected for the same reasons as discussed above in claims 18, 19 and 21, respectively, because a device inherently uses methods to accomplish its' tasks.

9. **Claims 24, 27, 45 and 48** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higurashi as applied to claim 22 above, and further in view of Alten.

Regarding claim 24, Higurashi teaches that a program can be viewed and recorded, but fails to specifically teach that while watching a program, the user has the ability to cancel viewing the program.

In a related art, Alten teaches that while watching a certain channel, a user can change the channel by entering a channel number by way of a keypad or by using channel up/down buttons. When the user changes the channel, the program being viewed is no longer displayed on the screen, and thereby cancelled for viewing (col. 12, lines 43-54).

A user is able to maneuver through numerous channels by way of a remote control with channel changing buttons. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the ability to change channels into Higurashi's system to increase user friendliness by giving the user an option to watch what he wants at any given time.

Regarding claim 27, Higurashi teaches that the copyright information is displayed to the user as shown in Fig. 6, but fails to teach of a method for removing the displayed information.

In a related art, Alten teaches that while a user is browsing a program schedule information, the user can exit the program schedule information display by way of pressing a MODE key twice on a remote controller.

The ability to cancel viewing of a program schedule allows the user to go back to viewing the previous program. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Higurashi's system to allow the user

the to cancel viewing the copyright information displayed on the screen. One would have been motivated to make such modifications to increase user friendliness by giving the user the power to control the display information.

Claims 45 and 48 are rejected for the same reasons as discussed above in claims 24 and 27, respectively, because a device inherently uses methods to accomplish its' tasks.

10. **Claims 28-30, and 49-51** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higurashi as applied to claim 13 above, and further in view of Horlander.

Regarding claims 28-30, Higurashi teaches in his system of prohibiting recording of desired programs, but he fails to expressly disclose that the recording can be of analog or digital format.

Horlander teaches in col. 10, lines 14-42 of copyright data that prohibits the following recordings: digital (33h), analog (31h), and neither digital nor analog (34h).

Having a digital copy of a program allows a user to make non-deteriorating copies. Such a situation is unfavorable from the viewpoint of copyrights. The quality of an analog copied program will not be long lasting, and thereby inhibit more copies made in future due to the deteriorating data stored on the magnetic tapes. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Higurashi to classify the type of allowable recordings into analog, digital, and neither.

Claims 49-51 are rejected for the same reasons as discussed above in claims 28-30, respectively, because a device inherently uses methods to accomplish its' tasks.

11. **Claims 55-75** are rejected for the same reasons as discussed above in claims 13-33, respectively, and further in view of Lang.

Regarding claims 55-75, Higurashi, Horton, Horlander, Alten and Tsutsumi, combined teaches a system that meets all the limitations as set forth by the inventor, but fails to specifically mention a medium recorded with a computer-readable program that includes the instructions for the methods and functions of the claimed invention.

Lang teaches in col. 7, lines 10-19 of memory unit (ROM 32) that stores programs used by a processor (CPU 31). As mentioned in col. 6, lines 46-52, the control unit (DCU 14) uses the programs stored in the ROM 32 to accomplish its' tasks. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a medium recorded with a computer-readable program so that a computer can be used to control any of the functions of the apparatus.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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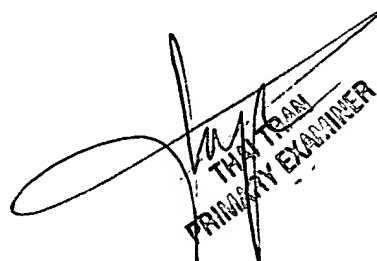
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gelek Topgyal whose telephone number is 571-272-8891. The examiner can normally be reached on 8:30am -5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gelek Topgyal
7/13/06



THAI TRAN
PRIMARY EXAMINER